

**Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of)	
)	
Petition for Order Declaring)	
Mid-Rivers Telephone Cooperative, Inc.)	WC Docket No. 02-78
An Incumbent Local Exchange Carrier)	
in Terry, Montana)	

OPPOSITION OF WESTERN WIRELESS CORPORATION

Western Wireless Corporation (“Western Wireless”), by counsel and pursuant to Public Notice, 1/ hereby opposes the Petition of Mid-Rivers Telephone Cooperative, Inc. (“Mid-Rivers”), for a ruling declaring it an incumbent local exchange carrier (“ILEC”) in Terry, Montana (the “Petition”).

Western Wireless opposes Mid-Rivers’ Petition because grant of the Petition would not satisfy Section 251(h)’s public interest requirement. 2/ By declaring Mid-Rivers an ILEC for Terry (and granting the study area waiver request Mid-Rivers promises to file upon grant of the Petition 3/), the Commission effectively could preclude competitive carriers, like Western Wireless, from entering into the Terry market, unless all of the competitive carrier obligations imposed upon Qwest go along with conferring ILEC status on Mid-Rivers. For example, as

1/ *Pleading Cycle Established for Comments on Mid-Rivers Telephone Cooperative Inc. Petition for Declaratory Ruling to Declare Mid-River an Incumbent LEC Pursuant to Section 251(h) of the Act*, WC Docket No. 02-78, Public Notice, DA 02-914 (rel. April 19, 2002).

2/ 47 U.S.C. § 251(h)(2)(C).

3/ See Petition at 3.

a Qwest exchange, a competitive entrant can obtain Eligible Telecommunications Carrier (“ETC”) status for the Terry wire center alone without necessarily serving other areas. If the Terry wire center becomes part of the Mid-Rivers’ study area, then a competitive carrier that can serve Terry but is unable to serve other portions of Mid-Rivers’ study area may be precluded from entering Terry as a universal service provider. For these reasons, changing Mid-Rivers’ status from being a competitive local exchange carrier in Terry to being an ILEC would impede competitive entry, and therefore grant of the Petition would not serve the public interest.

Moreover, if Mid-Rivers becomes an ILEC in Terry, the interconnection obligations imposed upon it would differ from those of Qwest, the current ILEC. Specifically, because Mid-Rivers is a rural telephone company, it is exempt from several interconnection duties that currently apply to Qwest. ^{4/} At the very least, competitive entrants would, as in the case of ETC designation, encounter procedural hurdles they presently do not face. ^{5/} So, again, making Mid-Rivers an ILEC would create barriers to entry such that granting the Petition would disserve the public interest.

In view of the Petition’s public interest shortcomings, the Commission must deny the requested declaratory ruling that Mid-Rivers is an ILEC in Terry.

^{4/} See 47 U.S.C. §§ 251(f)(1)(A), 251(f)(2).

^{5/} *Id.* § 251(f)(1)(B) (“The party making a bona fide request of a rural telephone company for interconnection, services or network elements shall submit a notice of its request to the State commission” which “shall conduct an inquiry for purposes of determining whether to terminate the exemption under subparagraph (A)”).

Alternatively, Western Wireless respectfully submits that any grant of the Petition, in order to satisfy Section 251(h)'s public interest criterion, must be accompanied by several conditions. First, the Commission must establish that Mid-Rivers' study area in Terry is separate from its current ILEC study area for purposes of designating competitive ETCs. Under this condition, so long as a competitive ETC's service area encompasses all of the geographic area in Terry, Montana for which Mid-Rivers would be deemed an ILEC, the competitive ETC can be designated there even if it does not serve all or portions of Mid-Rivers' current ILEC study area. Second, the Commission must establish that competitive carriers seeking ETC designation need not make a showing greater than would be required if Qwest remained the only ILEC in Terry. Under this condition, a competitive carrier would need only demonstrate it provides the enumerated services required of ETCs in order to be designated. 6/ Third, Mid-Rivers must agree not to rely upon exemptions to Section 251 to deny interconnection services to competitive carriers in Terry.

6/ 47 C.F.R. § 54.101(b).

CONCLUSION

For the foregoing reasons, Western Wireless respectfully requests that the Commission deny Mid-Rivers' Petition for a ruling declaring it an ILEC for Terry, Montana, or, in the alternative, that it condition any grant of the Petition in the manner discussed above.

Respectfully submitted,

WESTERN WIRELESS
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